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LETTER DATED 26 JANUARY 1996 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit to you herewith the interim report of the International Commission of Inquiry, submitted to me by the Chairman of the Commission, in pursuance of Security Council resolution 1013 (1995) of 7 September 1995.

You will note that in the conclusions of the report (para. 68), the Commission indicates that it will submit its final report as soon as possible, in accordance with paragraph 4 of Security Council resolution 1013 (1995). In the light of the information and observations contained in the attached report, and unless substantial progress can be made in the coming weeks towards resolving some of the difficulties encountered by the Commission, it would be my intention to request it to submit its final report by the end of February 1996.

I should be grateful if you would bring this letter and the attached report to the attention of the members of the Security Council.

(Signed) Boutros BOUTROS-GHALI

96-01127 (E) 300196 310196

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Annex

[Original: English/French]

17 January 1996

Interim report of the International Commission of Inquiry to investigate reports of the sale or supply of arms to former Rwandan government forces in violation of the Security Council arms embargo and allegations that those forces are receiving training to destabilize Rwanda

I. INTRODUCTION

1. By paragraph 1 of its resolution 1013 (1995) of 7 September 1995, the Security Council requested the Secretary-General

> "To establish, as a matter of urgency, an International Commission of Inquiry, with the following mandate:
>
> "(a) To collect information and investigate reports relating to the sale or supply of arms and related matériel to former Rwandan government forces in the Great Lakes region in violation of Council resolutions 918 (1994), 997 (1995) and 1011 (1995);
>
> "(b) To investigate allegations that such forces are receiving military training in order to destabilize Rwanda;
>
> "(c) To identify parties aiding and abetting the illegal acquisition of arms by former Rwandan government forces, contrary to the Council resolutions referred to above;
>
> "(d) To recommend measures to end the illegal flow of arms in the subregion in violation of the Council resolutions referred to above".

2. By paragraph 3 of the same resolution, the Council also called on States, relevant United Nations bodies, including the Committee established pursuant to resolution 918 (1994), international humanitarian organizations and non-governmental organizations (NGOs) to collate information in their possession relating to the mandate of the Commission and requested them to make that information available as soon as possible.

3. The Council, in paragraph 5 of the resolution, further called upon the Governments of the States in which the Commission was to carry out its mandate to cooperate fully with the Commission, including responding positively to requests from the Commission for security, assistance and access in pursuing investigations, including:

(a) Adoption by them of any measures needed for the Commission and its personnel to carry out their functions throughout their respective territories with full freedom, independence and security;

(b) Provision by them of all information in their possession that the Commission requested, or was otherwise needed to fulfil its mandate and free access for the Commission and its staff to any relevant archives;

(c) Freedom of access at any time, for the Commission and its staff, to any establishment or place as they deemed necessary for their work, including border points, airfields and refugee camps;

(d) Appropriate measures to guarantee the safety and security of the members of the Commission and guarantees from the Governments of full respect for the integrity, security and freedom of witnesses, experts and any other persons working with the Commission in the fulfilment of its mandate;

(e) Freedom of movement for members of the Commission, including freedom to interview any person in private, at any time, as appropriate;

(f) The grant of relevant privileges and immunities in accordance with the General Convention on the Privileges and Immunities of the United Nations.

4. In a letter dated 16 October 1995 (S/1995/879), the Secretary-General notified the President of the Security Council that he had appointed the following persons as members of the International Commission:

Ambassador Mahmoud Kassem (Egypt) (Chairman)

Inspector Jean-Michel Hanssens (Canada)

Colonel Jürgen G. H. Almeling (Germany)

Lieutenant-Colonel Jan Meijvogel (Netherlands)

Brigadier Mujahid Alam (Pakistan)

Colonel Lameck Mutanda (Zimbabwe).

5. By a letter dated 20 October 1995 (S/1995/880), the President of the Security Council informed the Secretary-General that the members of the Council welcomed his decision and took note of the information contained in his letter.

II. METHODS OF WORK OF THE INTERNATIONAL COMMISSION

6. As an organ established pursuant to a resolution of the Security Council, the International Commission was entitled to seek the assistance and cooperation of States as called for in that resolution, and it has approached a number of Governments to seek such information and cooperation. At the same time, being primarily a fact-finding body and being composed for the most part of serving military and police officers, the Commission decided to base its conclusions to the extent possible primarily on first-hand evidence concerning the subject of its mandate, such as eyewitness testimony, original documents and its own inspections and observations.

7. The International Commission has neither the legal powers nor the physical and human resources of a police force or an established investigative agency. Accordingly, it does not have at its disposal a wide range of legal instruments, such as search warrants or the technical capabilities that are normally associated with major and complex investigations of the kind undertaken by the International Commission. Instead, the Commission was obliged to rely on the assistance of Member States willing to place at its disposal and the goodwill of individuals whose cooperation it sought.

8. Notwithstanding its investigative limitations, the International Commission has recognized the need to apply in its work the same professional standards, procedures and methods as would be applied in any credible investigation. It should be emphasized that in any investigation the response time taken to begin the inquiry is critical. Over time, witnesses to events become difficult to locate, memories fail or testimony may change and critical physical evidence can disappear or be altered. The International Commission has been seriously hampered by its late deployment, in that it was not created until some 16 months after the adoption of the embargo. This delay, compounded by the absence of any effective monitoring or verification mechanism for the implementation of the embargo, has greatly impaired the Commission's ability to conduct its investigations under optimum conditions. Nevertheless, following the initial period its members spent familiarizing themselves with the details of the subject-matter and establishing themselves in the region, a number of lines of inquiry have been opened, which have not yet been exhausted.

9. The International Commission was established following the publication of several more or less detailed reports in a number of countries, including press reports and television broadcasts, alleging that arms had been sold or supplied to the former Rwandan government forces now in Zaire in violation of the United Nations embargo, and that men who had sought refuge in Zaire were engaged in military training. In the absence of any information derived from any United Nations organ charged with enforcing, implementing, monitoring or verifying the operation of the embargo, the Commission was obliged in the first instance to use those reports and broadcasts as provisional sources of information until it was able to investigate the allegations at first hand.

10. The International Commission therefore wrote in November and early December 1995 to the Governments of China, France, Seychelles and South Africa, countries named in the reports on the illegal shipments of arms, to ask for their response to the allegations and to inquire if they had undertaken, were undertaking or contemplated undertaking any investigation into those allegations, and informing them that the Commission would submit its report to the Secretary-General towards the end of January 1996. During its first visit to Zaire (see paras. 23-33 below), the Commission put similar questions to the Government of that country. As of the time of completing the present report, only the Governments of France and Zaire had replied to the Commission's letters. The Government of Belgium has also replied to technical questions posed by the Commission (see para. 42 below).

11. The Commission also wrote to the Government of Bulgaria concerning a Bulgarian company, Kintex, which had been featured in a British television programme as apparently willing to sell arms in violation of the United Nations

embargo, asking what action, if any, the Government had taken or intended to take to investigate the allegations. No reply has yet been received.

12. In pursuance of its mandate, the International Commission wished to visit all the countries of the Great Lakes region in order to collect information and investigate reports, if any, concerning the possible rearming and training of those forces, wherever they might be in that region. The Commission has for some time been trying to arrange high-level meetings between the Commission and the leaders of Burundi, Uganda and the United Republic of Tanzania. However, the Governments concerned have not yet indicated their readiness to receive the International Commission.

13. The International Commission, having established an administrative base at the United Nations Office at Nairobi, visited Rwanda and Zaire and met in each country with senior government officials and the heads of United Nations agencies and representatives of NGOs operating among the refugees (see appendix).

III. ACTIVITIES OF THE INTERNATIONAL COMMISSION

14. The International Commission arrived in Nairobi on 4 November 1995 following an intensive series of briefings and orientations at United Nations Headquarters. Having established itself in offices provided by the United Nations Environment Programme, the Commission proceeded as soon as possible to Kigali, Rwanda.

A. Activities in Rwanda

15. On arrival in Rwanda on 8 November 1995, the Chairman gave a press conference at the airport, explaining the nature and the mandate of the International Commission of Inquiry and introducing its members. The Commission was then briefed at the headquarters of the United Nations Assistance Mission for Rwanda (UNAMIR) by the Special Representative of the Secretary-General, Ambassador Shahryar Khan, and the Force Commander, Major-General Guy Tousignant.

16. That afternoon, the International Commission met with the Minister of Foreign Affairs of Rwanda, H.E. Mr. Anastase Gasana. The Commissioner met the following morning with the Vice-President and Minister of Defence, Major-General Paul Kagame.

17. During the meeting with the Vice-President, in addition to requesting general assistance in the discharge of the Commission's mandate, the Chairman requested the particular cooperation of the Rwandese Government in facilitating a visit by the Commission to Iwawa island in Lake Kivu. The island, which is Rwandese territory, had been the scene of a battle a few days before between the Rwandese Patriotic Army (RPA) and Rwandan insurgents apparently controlled by the former Rwandan government forces. A quantity of weapons and military matériel, as well as a number of prisoners, had been captured there.

18. The Commission's visit to Iwawa island took place the next day, 10 November 1995. The danger from land-mines, which had been heavily and indiscriminately laid on the island, and the time constraints imposed by limitations on the means of transportation available, prevented the Commission from undertaking a comprehensive study of the site and interviewing in depth the prisoners presented to it.

19. Nevertheless, the Commission was able to inspect weapons, explosives and other military equipment both on the shore and at another site further inland. Most of the weapons inspected were found to be old and unserviceable, while the new matériel, still wrapped in plastic bags, mostly comprised unassembled machine-guns. The Commission was later informed by the RPA senior officer present that some weapons in working order had been removed from the island and distributed among the RPA, but that none of these had been new.

20. The Chairman and some members of the Commission then interviewed some young men and a senior non-commissioned officer of the former Rwandan government forces who, they were informed by the RPA officer present, had been captured on the island. The Commission members were obliged to use the RPA officer as an interpreter in their interviews, but had no reason to doubt that the interpretation was accurate. The young men were informed of the nature of the International Commission and agreed to answer questions posed by it. The answers they gave indicated that the men were Rwandans, and had been living in Mugunga Camp near Goma, Zaire. They had been undergoing elementary weapons training on the island under the supervision of a military commander of the former Rwandan government forces and a civilian. No foreigners were said to be involved.

21. During its stay in Rwanda, the International Commission also met with representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and other United Nations agencies, the International Committee of the Red Cross (ICRC) and a number of NGOs, as well as representatives of major donor countries (see annex). The Commission also established direct working-level links with Rwandan government officials.

22. During November and December 1995, Commission members travelled back to Kigali from time to time to meet with officials there in an effort to gather and analyse as much information as possible that might corroborate the allegations under investigation. However, on the basis of the information made available to it through this channel to date, the Commission has not been able to reach a firm conclusion as to the truth of the allegations.

B. Activities in Zaire

1. Activities in Kinshasa

23. The International Commission had intended to travel to Zaire on 22 November 1995 for a visit to Kinshasa, Gbadolite and the Goma area, including Bukavau and Uvira, and had prepared an itinerary accordingly with the assistance of the UNAMIR Liaison Officer in Kinshasa.

24. However, on 21 November, the afternoon before the Commission's scheduled departure, the Chairman was informed that the Office of the Prime Minister of Zaire had raised questions concerning the terms of reference of the Commission and its proposed activities while on Zairian soil. The Commission was given to understand that the proposed length of its stay in Zaire - some 20 days, initially - was "too much" and should be reduced, and its proposal to be accommodated at Gisenyi in Rwanda while conducting investigations just across the border in Goma would be rejected. It was also explained that senior figures in the Zairian Government were engaged in preparations for the Cairo Conference on the Great Lakes region to be held on 28 and 29 November 1995. It was therefore recommended that the visit of the International Commission to Zaire be postponed until arrangements could be agreed upon with the Zairian Government.

25. Accordingly, the following day the Chairman visited the Ambassador of Zaire to Kenya, explained to him the terms of reference of the International Commission and recalled the role played by the Zairian Government in the Commission's creation. He drew to the Ambassador's attention resolution 1013 (1995), which sets out the Commission's mandate and calls on the States on whose territory that mandate was to be carried out to cooperate fully with it. The Ambassador undertook to convey the Chairman's position to Kinshasa and to inform him of his Government's reaction.

26. In the event, after more than two weeks' delay, during which high-level diplomatic efforts were being made to expedite the visit, the Zairian authorities finally, and with some apparent reluctance, agreed to permit the International Commission to pay a preliminary visit to Kinshasa from 8 to 16 December 1995. During that visit, the Commission was received by the Prime Minister and the Ministers of Foreign Affairs, Justice, Defence, the Interior and Transport. The International Commission also met with the Ambassadors to Zaire of Belgium, France, Germany and the United States of America, as well as heads of United Nations agencies in Kinshasa and representatives of the European Union and ICRC. During his meeting with the Prime Minister, the Chairman of the International Commission presented to him a personal letter from the Secretary-General.

27. The Zairian government Ministers, recalling the role played by their country in proposing the creation of the International Commission of Inquiry, promised their full cooperation and assistance. In response to a request by the International Commission that the Zairian Government nominate an official to liaise with the Commission, the Minister for Foreign Affairs, Mr. Gérard Kamanda wa Kamanda, proposed a 10-day "acclimatization" visit for the Commission to North and South Kivu, and offered the International Commission the assistance of a team of Zairian officers led by the Auditor General of the Zairian Armed Forces (FAZ), General Fariala Eutcha.

28. The Chairman submitted to the Minister for Foreign Affairs a list of written questions concerning the reaction of the Government of Zaire to the allegations made public thus far to the effect that it had been involved in the arming of the former Rwandan government forces in violation of the Security Council resolutions and that those forces were receiving military training on Zairian soil. The Minister for Foreign Affairs, stating that the burden of

proof lay on the accuser, delivered a written response making the following points:

> "The Commission's list of questions is, in essence, based on the allegations by Human Rights Watch rather than on facts whose solidity has been established in advance.
>
> "After registering the accusations by Human Rights Watch and taking note of the BBC television documentaries broadcast early in the year, the Government took the initiative in March by dispatching an investigation team to Kivu, under the Vice-Prime Minister and Minister of National Defence, to determine the accuracy of the complaints against Zaire in connection with the alleged destabilization of Rwanda.
>
> "This investigation team declared the accusations to be unfounded.
>
> "However, in the light of persistent accusations in the international media and by the Rwandan authorities, the Government felt obliged to call for the establishment of an international commission of inquiry.
>
> "At this stage of the investigation, the Government is entitled to expect that the Commission put forward some specific facts to which it could provide appropriate responses. Instead, it is being asked to answer allegations by an association whose accusations conceal ulterior motives. In addition, it is clear to even the least well-informed observer that the BBC television documentary was most crudely staged."

29. The Minister then replied to each of the Commission's questions. The Government had no knowledge of some of the incidents said to have occurred, and considered in respect of others that the evidence was insufficient to warrant any action. It had therefore not undertaken any investigation into the possible involvement of any Zairian national or company in the sale or supply of arms to the former Rwandan government forces in violation of the Security Council resolutions.

30. Stressing that they had neither the intention nor the resources to destabilize Rwanda, the Zairian authorities denied having armed or provided training to the former Rwandan government forces in violation of the Security Council embargo.

31. The Minister for Foreign Affairs also pointed out that, during the period when many of the alleged arms deliveries in violation of the embargo were said to have taken place, namely in mid-1994, the situation around Goma was marked by great turmoil and confusion. Some 2 million refugees poured across the border, overwhelming the efforts of relief agencies to accommodate and feed them; an outbreak of cholera cost 50,000 lives; and the war was still raging in neighbouring Rwanda. In response to pleas from the international community, the authorities waived visa and customs requirements to expedite the delivery of relief supplies and personnel. The airport at Goma was receiving flights day and night carrying equipment and supplies of all kinds, including tons of drinking water. During that period, said the Government, incoming flights to the airport were coordinated by UNHCR.

32. The Minister pointed out that the international community was present in Goma in full force during the period in question and would certainly have observed any attempts to transport weapons through the airport. The International Commission is also aware that during the period of Operation Turquoise (June-August 1994), the French military maintained a sizeable presence at Goma airport and exercised substantial control over its operations.

33. The Minister of Defence, in his meeting with the Commission, stated that the Zairian army had disarmed the retreating Rwandan government forces as they crossed the border. He said the confiscated weapons had been placed in storage in depots. He added that some small arms might have been smuggled in amid the large influx of refugees and soldiers, and not confiscated.

2. Activities in Goma

34. Two members of the Commission arrived in Goma on 5 January 1996 and on the following two days, with the permission of the Governor ad interim of Kivu Province, Mr. Athanase Tassi, visited Mugunga and Kibumba camps. The Commission members also met with the Chief of the UNHCR sub-office in Goma and other UNHCR officials, members of a German humanitarian aid organization and the commander and officers of the UNHCR Civilian Security Liaison Group. Contact was also made with the Zairian Camp Security Contingent. The Commission learned independently that the Zairian authorities had investigated allegations that Rwandan residents of the camps had been engaged in the recruitment of youths from the camps for clandestine training and other military purposes.

35. Shortly thereafter, however, the officer assigned by the Zairian Government to assist the International Commission in its inquiries, General Fariala Eutcha, accompanied by eight other Zairian officials, arrived in Goma from Kinshasa. The Chairman and other members of the Commission now having arrived, sharp disagreement immediately arose between the Commission and the Zairian officials over the Commission's proposed activities. The two sides held a series of meetings at which sharply conflicting interpretations of the Commission's mandate were debated. The Zairian side appeared to wish to renegotiate the terms of reference of the Commission and insisted on attending its meetings with potential witnesses and on reviewing the draft report of the Commission on its activities in Goma before it left Zaire.

36. The Commission firmly rebuffed these demands. It emphasized that its mandate had been entrusted to it by the Security Council, which alone had the power to change its terms of reference. The Commission therefore could not enter into negotiations on the matter. It insisted on the right to complete freedom of movement and the right to conduct its interviews in private, citing paragraph 5 of resolution 1013 (1995), stressed its obligation to report direct to the Secretary-General and made it clear that no third party would be allowed to see its report beforehand.

37. On 9 January 1996, the Prime Minister of Zaire appealed to the Secretary-General for his interpretation of resolution 1013 (1995), and the Secretary-General confirmed that the International Commission's interpretation of its mandate was correct. On 12 January 1996, the Minister for Foreign Affairs wrote

to the Secretary-General, repeating the demands that the Commission had found objectionable. At that point, since the Zairian side maintained its uncooperative position, the Commission declared that it could not pursue its investigations in Goma in the face of that obstructionist attitude of the Zairian authorities and considered that it had no alternative but to withdraw to Nairobi.

38. Although unable to pursue a full and proper investigation in Goma, during the brief time they spent there, the members of the Commission gathered additional information from a variety of sources that gave rise to suspicion that clandestine activities were being carried out. These included persistent eyewitness reports of mysterious night flights, despite the fact that Goma airport is not properly equipped to receive flights after dark, and the exclusion of those witnesses from the airport by the authorities at those times. Sometimes cargo is reportedly unloaded from certain aircraft in secret. The Commission was also made aware that UNHCR staff and NGO personnel are excluded by the former Rwandan government forces from certain areas, notably an area outside Lac Vert camp commonly known as "L'État Major". Furthermore, they do not stay in the camps after dark, and a curfew is in effect. While the Commission has insufficient evidence to draw conclusions as to their significance, it is persuaded that these reports are accurate. Finally, the Commission could not but be impressed by the very noticeable climate of fear of retribution that prevails in Goma.

C. Other activities of the International Commission

1. Approaches to Governments

39. Although the Commission had decided not to base its activities on second-hand testimony, some of the information made available to it from published sources was extremely detailed and circumstantial. The Chairman of the Commission therefore wrote to a number of Governments whose nationals were said to have participated in the delivery of weapons and related matériel to the former Rwandan government forces in violation of the Security Council embargo, asking if those Governments that had conducted an investigation were in the process of investigating or intended to investigate the alleged participation of these individuals or companies in this activity on the basis of the allegations made by Human Rights Watch Arms Project, a Washington-based NGO. The Governments approached in this way were those of Bulgaria, China, France, Seychelles, South Africa and Zaire. The Commission sent follow-up letters to the Government of France, requesting it to nominate an official with whom the Commission could deal on a working level in obtaining answers to its questions concerning the detailed information available to it.

40. Following the Commission's inspection of the arms captured on Iwawa island, the Chairman also write to the Governments of Belgium and South Africa, the apparent countries of origin of some of the weapons, where these could be identified, informing them of the serial numbers found on the equipment and requesting information on the date of manufacture; the date of sale and the identity of the buyer; the delivery date to the buyer; and any other relevant information. The Commission also asked the South African Government to supply

information about the findings of the Cameron Commission, which might have a bearing on the work of the Commission.

41. The Chairman of the International Commission also wrote to the Chairman of the Committee established pursuant to resolution 918 (1994), requesting any information that might pertain to the Commission's mandate. The Chairman, Ambassador Wisnumurti of Indonesia, replied that the Governments of China and France, acting in response to questions raised in the Committee concerning the Human Rights Watch report available to the International Commission, had formally denied the allegations therein.

42. On 10 January 1996, the Government of Belgium replied to the Chairman of the International Commission, stating that it had initiated investigations in Belgium concerning the origin of the weapons inspected by the Commission on Iwawa island. The information provided by the Belgian authorities contained no indication that the weapons had been sold or supplied to the former Rwandan government forces in violation of the arms embargo. The Commission has as yet received no reply from the Governments of Bulgaria, China or South Africa.

43. The Commission received the reply of the Government of France on 5 January 1996. In it, the French Government stated the following:

> "The investigation conducted by the French authorities into the accusations and insinuations contained in the Human Rights Watch report shows, as the French Government has already stated, that France has complied in the strictest possible manner with the arms embargo imposed on Rwanda by the Security Council on 17 May 1994 and that no arms have been supplied to Rwandans living as refugees outside their country.
>
> "The French authorities have no information concerning the possible involvement of French nationals or French companies in arms trafficking which violates the embargo. The French Government would be interested to receive from the International Commission of Inquiry any evidence or clarification available to the latter which might help the Government to carry out investigations and to consider what measures might be required to deal with any possible offence against French law currently in force.
>
> "At the request of the Commission and in accordance with paragraph 3 of Security Council resolution 1013 (1995) of 7 September 1995, which calls on States to collate information in their possession relating to the mandate of the Commission, the French authorities hereby transmit to you information gathered by French Operation Turquoise military personnel while deployed in Rwanda's safe humanitarian zone.
>
> "This information was already transmitted, on 24 August 1994, to the Commission of Experts established pursuant to Security Council resolution 935 (1994) of 1 July 1994."

As requested by the Commission, the French Government nominated a senior official, the Deputy Permanent Representative of France to the United Nations, to assist the Commission with any further inquiries it might have.

44. Although Goma was an important focus of the Commission's activities, the Commission was aware that many of the persons having first-hand knowledge of events said to have taken place there might no longer be in the area. Many worked for NGOs, which, as the Commission was informed, had a high rate of staff turnover. The Commission therefore contacted major NGOs known to have had personnel in the Goma area between 17 May 1994 and the present to ask for the names of staff who were no longer employed, and some indication, if possible, as to their current whereabouts.

45. A member of the Commission, accompanied by its political officer, visited London from 8 to 12 January 1996 to interview British Government aid officials, Her Majesty's Customs investigators, NOG staff, aircrews said to have been involved in flying to Goma and journalists who had filmed in the area.

46. The British Overseas Development Administration personnel interviewed by the Commission had spent considerable time at Goma airport, from the crisis period up to the present, and had been heavily involved in unloading and handling cargo. Most of their personnel are former military personnel familiar with the size, weight and appearance of arms, ammunition and matériel even when they are packed in boxes. The officials interviewed stated to the Commission that they had seen no arms flown into Goma; had no evidence of such deliveries; and had themselves unloaded nothing but humanitarian supplies from the aircraft they had handled.

47. The Commission also met with Her Majesty's Customs investigators, who stated that they had launched an investigation into British companies and individuals suspected of participating in arms flights in violation of the embargo, but had discovered insufficient evidence to support a prosecution under United Kingdom law.

48. Aircrews interviewed by the Commission denied having flown arms or ammunition to Goma after the imposition of the embargo and could not supply the names of any others known to have done so.

49. The International Commission also wrote to the Governments of Burundi, Uganda and the United Republic of Tanzania, requesting approval to visit and hold high-level meetings with government officials. The Commission also requested those Governments to make available information they had, if any, concerning the subject of the Commission's mandate. None of the Governments has yet replied.

2. Case-study: alleged involvement of Seychelles

50. A particularly detailed allegation of involvement in the sale or supply of arms and ammunition to the former Rwandan government forces after the imposition of the embargo concerns Seychelles. Because of the precision with which the dates and other circumstances had been described, the International Commission was able to devote particular attention to this allegation.

51. According to the Human Rights Watch report "Rearming with Impunity: International Support for the Perpetrators of the Rwandan Genocide", DC-8

aircraft belonging to Air Zaire had taken two shipments of arms, including grenades and high-calibre ammunition, from Seychelles to Goma on 17 and 19 June 1994. The weapons were said to have been paid for with $300,000 in cash supplied by a senior Rwandan military officer accompanied by a citizen of South Africa, both named in the report. The Government of Zaire was said to have provided an end-user certificate in respect of the arms, but when the International Commission met in Kinshasa with Zairian government Ministers and requested information, the Government replied in writing that it had no knowledge of this matter.

52. The International Commission of Inquiry subsequently independently established that an Air Zaire DC-8 aircraft had left Kinshasa for Mombasa on 16 June 1994 and returned from Goma to Kinshasa on 20 June. Information from sources in Seychelles indicates that the Human Rights Watch report is accurate, and that very senior government figures are said to be involved.

53. On 7 December, the International Commission wrote to the Seychelles Minister of Defence, Mr. James Michel, drawing his attention to the allegations and requesting information from the Seychelles Government to assist the Commission in making its report. The International Commission also asked whether or not the Government of the Seychelles had investigated, was investigating or planned to investigate any national of or company based in the Seychelles in connection with alleged violations of the Security Council embargo on arms for the former Rwandan government forces, and invited the Government to nominate an official with whom the International Commission could deal on a working level. No reply has yet been received.

54. The International Commission has also requested the assistance of the International Civil Aviation Organization in tracking the movements of the Air Zaire DC-8 aircraft said to have transported the ammunition.

IV. OBSERVATIONS AND CONCLUSIONS

A. Observations

55. The International Commission had before it detailed and voluminous information suggesting that arms deliveries had been made to Goma airport in Zaire for the use of the former Rwandan government forces in violation of the embargo imposed by the Security Council in May 1994. This information came primarily from the NGO Human Rights Watch Arms Project, whose report was based on four months of field investigation in Central Africa, and whose researcher interviewed, among others, several officers of the former Rwandan government forces, including those of the highest rank. The researcher also interviewed Zairian officers, airport staff and local businessmen. At least three British television documentaries and a number of stories in the British and French press were also devoted to similar allegations.

56. The Human Rights Watch Arms Project report explicitly states, citing numerous incidents with dates, that "the perpetrators of the Rwandan genocide have rebuilt their military infrastructure, largely in Zaire, and are rearming themselves in preparation for a violent return to Rwanda". The report adds that

"[s]everal members of the international community, including France, Zaire and South Africa, have actively aided and abetted this effort through a combination of direct shipments of arms, facilitating such shipments from other scurces and providing other forms of military assistance, including training". The Human Rights Watch report was subsequently confirmed by Amnesty International.

57. For its part, France, both in its reply to the International Commission of Inquiry and to the Security Council Committee established pursuant to resolution 918 (1994), has unequivocally denied being implicated in such shipments.

58. The Government of Zaire, too, in its oral and written responses to the International Commission, denied knowledge of or involvement in any such arms deliveries or in any training allegedly being carried out by the former Rwandan government forces.

59. However, although the Prime Minister and other senior government Ministers of Zaire promised during the International Commission's visit to Kinshasa to extend their full cooperation to the International Commission, as called for by the Security Council in its resolution 1013 (1995), the International Commission considered the attitude of the Zairian delegation assigned to assist it in Goma unsatisfactory. Though aware of the precarious security situation and the poor condition of the infrastructure in Goma and the consequent need for official government assistance, the Commission considered that the insistence of Zairian officials on attending all its interviews was obstructive, unhelpful and not in keeping with the letter and spirit of Security Council resolution 1013 (1995), and especially paragraphs 5 (a) and (e) thereof. Under the circumstances, following the intercession of the Secretary-General, the International Commission informed the Government of Zaire that it had no alternative but to withdraw from Zaire and report to the Secretary-General that it was unable to proceed with its investigation in Goma because of the position taken by the Government of Zaire, an attitude that resulted in a further week's delay in Goma.

60. There can be no doubt that it is very difficult at this stage to determine what exactly happened in Goma in mid-1994. All those involved at first-hand have described the situation to the Commission as chaotic and confused. Unprecedented numbers of flights were bringing hundreds of tons of equipment and relief supplies into Goma airport at a time when official controls had been relaxed or suspended, more than a million refugees had flooded into the country and war was raging on the other side of the border. Many of those who witnessed these events and might be in a position to shed light on the allegations of violations of the embargo have left the scene and are scattered throughout the world.

61. Journalists and researchers for NGOs, moving with a speed and flexibility that intergovernmental bodies can rarely match, were quick to investigate the persistent rumours of arms shipments that circulated among the NGO community in the border camps. For the various reasons set out above, the International Commission of Inquiry has not as yet been able to corroborate the picture they have painted of repeated violations of the Security Council arms embargo or, indeed, so far to establish to its own satisfaction a single case of the sale or

supply of weapons or related matériel to the former Rwandan government forces in violation of the relevant Security Council resolutions.

62. None the less, significant doubts remain. The circumstances under which the International Commission carried out its investigation were far from ideal, the biggest obstacles being the 16-months that had elapsed between the imposition of the embargo in May 1994 and the creation of the International Commission in September 1995, and the lack of cooperation on the part of the Zairian authorities. If the International Commission is obliged to conclude that at this stage that it has not discovered firm and reliable evidence of violations, it is not necessarily convinced that no violations took place. The Commission would note, in this connection, that rumours of persistent embargo violations seem to have greatly diminished following the publication of the Human Rights Watch and Amnesty International reports and the accompanying media attention.

63. With regard to training, the situation is both simpler and more difficult. The International Commission established that a number of "military" camps had been set up in Zaire for young men, and had viewed a film shown on British television purportedly showing men training with weapons by night. The Commission had also been briefed by UNAMIR on the increasing numbers of incursions into Rwanda from Zaire, the growing size and military skill of the groups involved and the extent of the loss caused to life and property as a result of their incursions, considerations which suggest that military training was being carried out.

64. the Commission was also aware of persistent reports of "training" by young Hutu men in the Zairian camps. However, groups of men jogging, exercising or even singing military songs are not necessarily engaged in military training, nor is it clear that the purpose of the training is the destabilization of Rwanda. In this connection, it should be noted that, in the absence of any indication that the weapons sighted were supplied to the former Rwandan government forces in violation of the embargo, the reported sighting of "arms caches" also has limited relevance to the Commission's mandate. These could have been weapons brought with them across the border by the fleeing Rwandan government forces. Nor, for the reasons explained above, was the Commission able to visit the locations where the training is said to have taken place, or to interview refugees there.

65. The Commission's military experts did not find the British television film purporting to show training entirely convincing. Furthermore, the film itself makes it clear that the men so depicted included both Rwandan and Burundian residents of the camps, giving rise to the possibility that the purpose of the training might not be related to Rwanda, or exclusively related to Rwanda.

66. Nevertheless, the Commission bore in mind that the Security Council was not concerned with the quality of the training received, nor with the location in which it took place, but rather with the intention behind it. Basic familiarity with small arms and practice in laying mines can be sufficient for the needs of a low-intensity guerrilla force. The Commission's interviews with the men captured by the RPA on Iwawa island (see paras. 17-20 above) strongly indicate that certain Rwandan elements who have sought refuge in Zaire are receiving

training, of however poor quality it might be, that the purpose of the training is to conduct incursions into Rwanda, and that these incursions have a destabilizing effect on Rwanda.

B. Conclusions

67. With reference to its mandate, as set forth in Security Council resolution 1013 (1995), the International Commission of Inquiry would therefore conclude as follows:

(a) Having gathered information in Nairobi, Kigali, Kinshasa, Goma and London from government Ministers and officials, diplomats, United Nations officials, relief workers, aircrews, customs investigators, journalists and others and having investigated detailed reports from respected NGOs and the print and television media, the International Commission of Inquiry is not at this stage in a position to confirm allegations that arms, ammunition and related matériel were sold or supplied to the former Rwandan government forces in violation of the relevant Security Council resolutions;

(b) The International Commission believes Rwandan men are receiving military training to conduct destabilizing raids into Rwanda and that, specifically, Rwandan men received military training on Iwawa island, Rwanda, for that purpose;

(c) In the time available to it, the International Commission was not able reliably to establish that specific Governments, companies or individuals had aided or abetted the sale or supply of arms and related matériel to the former Rwandan government forces in violation of the relevant Security Council resolutions.

68. In accordance with paragraphs 1 (d) and 4 of Security Council resolution 1013 (1995), the International Commission of Inquiry will submit as soon as possible a final report containing its recommendations, as well as any significant additional information that comes to light as a result of its continuing inquiries.

Appendix

Contacts made by the International Commission of Inquiry

The International Commission of Inquiry wishes to express its deep appreciation to the government officials, diplomats, non-governmental organizations, individual relief workers, journalists and others who assisted it in its inquiries.

A. In Rwanda

Government officials:

Vice-President and Minister of Defence, Major-General Paul Kagame
Minister of Foreign Affairs, Mr. Anastase Gasana

Representatives of donor countries/organizations:

Belgium
France
Germany
Netherlands
United Kingdom of Great Britain and Northern Ireland
United States of America
European Union

United Nations agencies and international humanitarian organizations: United Nations Development Programme (UNDP), UNHCR, United Nations Children's Fund (UNICEF), World Food Programme (WFP), Human Rights Field Operation in Rwanda, World Health Organization (WHO), World Bank, United Nations Educational, Scientific and Cultural Organization (UNESCO), ICRC

Non-governmental organizations:

MERLIN

B. In Kenya

Representatives of States:

Belgium
Burundi
Canada
Netherlands
France
United States of America (military attaché)
Uganda
United Republic of Tanzania
Zaire

United Nations agencies and international humanitarian organizations: UNDP, WFP, Food and Agriculture Organization of the United Nations (FAO), United Nations Environment Programme (UNEP), ICAO, ICRC

Non-governmental organizations:

Médecins sans frontières
CARE

C. In Zaire

In Kinshasa

Government officials:

The Prime Minister
The Vice-Prime Minister, Minister for Foreign Affairs
The Vice-Prime Minister, Minister of Defence
The Vice-Prime Minister, Minister of the Interior
The Minister of Justice
The Minister of Transport
President/Director-General, Régie des Voies Aériennes

Representatives of States:

Belgium
France
Germany
United States of America

United Nations agencies and international humanitarian organizations: UNHCR, WHO, UNICEF, FAO, European Union (ECHO), ICRC, UNAMIR (Liaison Office)

In Goma

The Governor ad interim of Kivu Province, Mr. Athanase Tassi

General Fariala Eutcha, Auditor General of the Zairian Armed Forces, and his team of officials

Representatives of UNHCR

Commander and officers of the Camp Security Liaison Group

Officials of GTZ, a humanitarian organization

D. In the United Kingdom

Her Majesty's Customs
Overseas Development Administration Crown Agents
Amnesty International

The Commission also interviewed certain individuals who requested anonymity but who, however, provided no firm evidence of violations of the Security Council embargo.